

Message Text

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INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DODE-00 DOTE-00
EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01
INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01
OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15 ICA-11
OIC-02 AF-10 ARA-11 EA-10 EUR-12 NEA-10 /193 W
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R 081845Z SEP 78
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INFO USDEL LOS COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 03512

FROM LOSDEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS CONFERENCE WEEKLY SUMMARY - AUGUST 28 -
SEPTEMBER 1

SUMMARY: COMMITTEE I: SEABEDS DISCUSSION IN THE NEGOTIATING GROUPS 1, 2, AND 3 PROVIDED NO SURPRISES AND SEEMINGLY LITTLE PROGRESS. IN NG-1, THE DEBATE ON THE FIRST FOUR PARAGRAPHS OF ANNEX II WAS LARGEMLY TAKEN UP BY IDEOLOGICALLY "SAFE" INTERVENTIONS THAT ONLY SERVED TO MAKE CLEAR THE DIVERGENCES IN PERCEPTION BETWEEN THE G-77 AND THE INDUSTRIALIZED STATES. LITTLE WAS ACCOMPLISHED THAT COULD NARROW THE GAP BETWEEN THE TWO GROUPS. NG-2 CONTINUED THE SLOW PROCESS OF DISCREDITING, BY MEANS OF THE MIT COST MODEL, SEVERAL UNREALISTIC PROPOSALS. NG-3 CONSIDERED COMPARATIVELY UNCONTROVERSIAL QUESTIONS DEALING WITH THE SPECIALIZED COMMISSIONS TO BE ESTABLISHED UNDER THE COUNCIL. MANY DRAFTS AND RE-DRAFTS WERE PRODUCED, BUT LITTLE SUBSTANTIVE PROGRESS WAS EITHER EXPECTED OR

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REALIZED.

COMMITTEE II: NG-6 CONCLUDED DISCUSSION OF THE DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL MARGIN AND REVENUE SHARING WITH BROAD SUPPORT FOR THE "IRISH FORMULA" INDICATED. IN NG-7, DEBATE COMMENCED ON INTERIM MEASURES TO BE APPLIED BY STATES PENDING A RESOLUTION OF

THEIR MARITIME BOUNDARY PROBLEMS. DEBATE WAS SUSPENDED ON MARITIME BOUNDARY DISPUTE SETTLEMENT TO AWAIT RESULTS OF A SECRETARIAT STUDY OF AGREEMENTS AND ARBITRATIONS. COMMITTEE III RECEIVED A WORKING PAPER (MP/27) ON THE RESULTS OF AMENDMENTS TO POLLUTION ARTICLES. END SUMMARY

1. THE THREE NEGOTIATING GROUPS CONCERNED WITH COMMITTEE I (SEABEDS) ISSUES CONTINUED WORKING AT THE RAPID PACE ESTABLISHED DURING THE FIRST WEEK OF THE RESUMED SESSION. NG-1 (SYSTEM OF ACCESS) MET FOUR TIMES UNDER FRANK NJENGA (KENYA) TO DEBATE ANNEX II. THROUGH DISCUSSION, SEVERAL AMBIGUOUS PROVISIONS IN THE FIRST FOUR PARAGRAPHS OF ANNEX II CAME TO LIGHT. MANY OF THESE PROVISIONS WERE DRAFTED FOR THE SPECIFIC PURPOSE OF PAPERING OVER IDEOLOGICALLY-BASED DIFFERENCES BETWEEN THE G-77 AND THE INDUSTRIALIZED COUNTRIES. THEY ARE NOW COMING UNDER FIRE FROM BOTH SIDES AS THE NEED TO CREATE A REGIME THAT WILL OPERATE IN A REAL SITUATION AND NOT JUST ON PAPER RECEIVED INCREASED EMPHASIS.

2. NG-2 SPENT ITS TIME TREADING WATER AND WAITING FOR THE SPECIFIC PROPOSAL WHICH IS TO BE INTRODUCED BY MINISTER EVENSEN (NORWAY). ITS ACTIONS CONSISTED MAINLY OF STERILE DEBATE ON THE ACCOUNTING PROCEDURES TO BE USED BY THOSE WHO CHOOSE THE MIXED SYSTEM OF ROYALTY-PLUS-PROFIT-SHARING.

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3. SEVERAL RADICAL MEMBERS OF THE G-77 (DABB, PAPUA NEW GUINEA, HAQUE, PAKISTAN, AND GAYAN, MAURITIUS) HAVE BEEN SUGGESTING ACCOUNTING PROCEDURES FAR MORE ONEROUS AND NO MORE EFFECTIVE THAN GENERALLY ACCEPTED ACCOUNTING PROCEDURES. THE US AND OTHER DEVELOPED COUNTRIES ADVOCATE THE USE OF GENERALLY ACCEPTABLE ACCOUNTING PROCEDURES BOTH BECAUSE THESE ARE THE MOST EFFECTIVE SOLUTIONS TO ACCOUNTING PROBLEMS AND BECAUSE NEGOTIATIONS WILL BECOME HOPELESSLY BOGGED DOWN IF EVERY ACCOUNTING PROCEDURE IS TO BE NEGOTIATED. THIS LATTER POSITION BASICALLY SUPPORTS THAT SUGGESTED BY RATTRAY (JAMAICA) LAST SPRING IN GENEVA; BUT, UNFORTUNATELY, HE HAS NOT BEEN PRESENT IN NG-2 THIS WEEK AND THE INVOCATION OF HIS NAME HAS FAILED TO MOVE RHE ABOVE-MENTIONED RADICALS. MINISTER EVENSEN HAS SHOWN THE USDEL HIS PROPOSAL, WHICH IS EXPECTED TO BE RELEASED EARLY NEXT WEEK. IT PRODUCES A 15.3 PERCENT RATE OF RETURN USING THE MIT BASELINE CASE AND, IN GENERAL, IS FAR SUPERIOR TO THE SUGGESTION EVENSEN PUT FORWARD IN GENEVA. THE US INFORMED EVENSEN, HOWEVER, THAT IT WOULD ATTACK THE PROPOSAL AS UNACCEPTABLE ALTHOUGH RECOGNIZING THAT IT WAS A STEP IN THE RIGHT DIRECTION.

4. NG-6 COMPLETED ITS DISCUSSION OF THE DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL MARGIN (ARTICLE 76) AND REVENUE SHARING (ARTICLE 82). THE DEBATE, AS BEFORE, WAS NOT SUFFICIENT TO GENERATE A CONSENSUS IN THE FACE OF STUBBORN SOVIET ADHERENCE TO ITS OWN FORMULA. THERE WAS BROAD SUPPORT FOR THE IRISH FORMULA FROM THE PRC, COLOMBIA, CHILE, FRANCE, PERU, URUGUAY, AUSTRALIA, ARGENTINA, COSTA RICA, IRELAND, MEXICO, GABON, THE PHILIPPINES, INDIA AND MAURITIUS (IN ADDITION TO SPEAKERS FROM THE PREVIOUS WEEK). COLOMBIA AND COSTA RICA SURFACED SUPPORTIVE POSITIONS FOR THE FIRST TIME IN THE CONFERENCE. THE ARAB BLOC STUCK TO A STRAIGHT 200-MILE LINE (SPEAKERS INCLUDED IRAQ, BAHRAIN, ALGERIA, EGYPT, UAE, LIBERIA, LIBYA, AND NON-BLOCK HAITI). ALTHOUGH ITS POSITION SEEMS TO BE MORE

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FORMAL THAN REAL, IT IS BELIEVED THAT THE ARAB BLOC

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FROM LOSDEL

WOULD BE SUSCEPTIBLE TO COMPROMISE. THE SOVIET POSITION, STRENUIOUSLY PRESSED BOTH PUBLICLY AND PRIVATELY, GAINED THE SUPPORT OF ONLY EASTERN EUROPEAN COUNTRIES (GDR,

ROMANIA, USSR, AND BULGARIA). SINGAPORE, UGANDA, THE CAMEROONS, AND CAPE VERDE ADOPTED AMBIGUOUS STANCES.

5. IT SEEMS CLEAR THAT THE SOVIETS ARE NOT YET PREPARED TO WITHDRAW THEIR OPPOSITION TO THE IRISH FORMULA. IN THE LIGHT OF THIS DEADLOCK THE TOPIC HAS FOR THE TIME BEEN SET ASIDE WHILE PRIVATE CONSULTATIONS CONTINUE AMONG THE MOST AFFECTION STATES.

6. NG-7 COMMENCED DEBATE ON INTERIM MEASURES TO BE APPLIED PENDING A FINAL RESOLUTION OF MARITIME BOUNDARY PROBLEMS. AT THE BEGINNING OF THE DISCUSSION, CHAIRMAN MANNER POSED TWO QUESTIONS: (1) WHETHER OR NOT THERE SHOULD BE A PROVISION IN ARTICLES 74 AND 83 PROVIDING IN ONE FORM OR ANOTHER THAT PENDING AGREEMENT OR SETTLEMENT, NEITHER OF THE STATES CONCERNED IS ENTITLED

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TO TAKE MEASURES, PARTICULARLY SUCH AS EXPLORATION AND EXPLOITATION OF NATURAL RESOURCES, WHICH ARE LIKELY TO IMPEDE THE COMPLETION OF FINAL DELIMITATION; AND (2) THE POSSIBLE DESIRABILITY OF COMBINING A MORATORIUM WITH AN OBLIGATION FOR THE PARTIES TO MAKE PROVISIONAL ARRANGEMENTS PENDING FINAL DELIMITATION.

7. THE DEBATE SPLIT BETWEEN THOSE WHO FAVOR THE PRESENT TEXT OF ARTICLES 74 AND 83, AND THOSE FAVORING MORE EMPHASIS ON THE MEDIAN LINE AS A FINAL SOLUTION TO THE SUBSTANTIVE PROBLEM. THUS, IN ONE FORM OR ANOTHER, SUPPORT WAS GIVEN (BY IRELAND, THE REPUBLIC OF KOREA, LIBYA, VENEZUELA, MOROCCO, FRANCE, TURKEY, USSR, ALGERIA, POLAND, AND MADAGASCAR) TO THE POSITION THAT STATES SHOULD THEMSELVES ESTABLISH AN INTERIM ARRANGEMENT, WITH OR WITHOUT A MORATORIUM AND WITH OR WITHOUT A FIRM DUTY TO NEGOTIATE OR A CUT-OFF POINT. ON THE OTHER SIDE, TENDING TOWARD USE OF THE MEDIAN LINE AS AN INTERIM ARRANGEMENT WERE SPAIN, CYPRUS, CHILE, AND COLOMBIA. AFTER CONSIDERATION OF THESE POSSIBLE COMPROMISE TEXTS, NG-7 SUSPENDED DEBATE ON MARITIME BOUNDARY DISPUTE SETTLEMENT TO AWAIT THE RESULTS OF A SECRETARIAT STUDY WHICH WILL TABULATE THE OCCURRENCE OF MARITIME DELIMITATION AGREEMENTS AND ARBITRATIONS SINCE 1945. IT WILL ALSO LIST EXTANT GENERAL ARBITRAL TREATIES CONCLUDED DURING THAT PERIOD. THE STUDY WAS REQUESTED BY MOROCCO, WITH THE VOCAL SUPPORT OF THE SOVIET UNION (THESE TWO DELEGATIONS ARE AMONG THE LEADING OPPONENTS OF COMPULSORY DISPUTE SETTLEMENT ON BOUNDARIES). PRESUMABLY THEIR TACTIC WAS TO STALL NEGOTIATIONS WHILE SIMULTANEOUSLY PRODUCING A DOCUMENT WHICH WOULD SHOW THAT MARINE BOUNDARIES ARE MOST OFTEN SETTLED BY AGREEMENT

AND ONLY RARELY BY THIRD-PARTY PROCEDURES. ALTHOUGH
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NEGOTIATIONS WERE NOT SUSPENDED UNTIL THERE HAD BEEN A FULL DISCUSSION OF DISPUTE SETTLEMENT, THEIR TACTIC WAS SUCCESSFUL IN THAT THE STUDY WILL SHOW AN ABUNDANCE OF AGREEMENTS AND A PAUCITY OF ARBITRATIONS. DESPITE THE IRRELEVANCE TO THE APPROPRIATIONS OF BINDING SETTLEMENT AS A LAST RESORT, THE FIGURES MAY INFLUENCE THE DEBATE WHEN NEGOTIATIONS CONTINUE. FOR THIS REASON, AMONG OTHERS, IT IS HOPED THAT THE RESUMED TALKS MAY BE MOVED AS QUICKLY AS POSSIBLE TO A SMALL EXPERT GROUP WHERE LESS RHETORICAL USE CAN BE MADE OF THE STATISTICS.

8. IN TWO INFORMAL MEETINGS OF COMMITTEE II, CHAIRMAN AGUILAR RESUMED ARTICLE-BY-ARTICLE LONG MARCH THROUGH THOSE ISSUES IMPORTANT TO SOME COUNTRIES BUT WHICH HAD NOT BEEN ASSIGNED TO A SPECIAL NEGOTIATING GROUP. URUGUAY INTRODUCED A NEW ARTICLE 73 BIS CALLING FOR STATE RESPONSIBILITY FOR DAMAGE DONE BY ITS WARSHIPS IN ANOTHER STATE'S ECONOMIC ZONE. SINCE THIS PROPOSAL WAS BEGINNING TO GAIN SUPPORT (FROM PAKISTAN, ECUADOR, PERU, ARGENTINA, SOMALIA, EL SALVADOR, PRC, PHILIPPINES, BRAZIL, CHILE, SPAIN, YUGOSLAVIA, COSTA RICA, ROMANIA, AND THE SEYCHELLES), IT WAS NECESSARY FOR THE MARITIME POWERS (US, USSR, UK, FRG) TO INTERVENE IN OPPOSITION. THE US AND USSR BOTH TOOK THE POSITION THAT EXISTING RULES OF LIABILITY IN INTERNATIONAL LAW WERE SUFFICIENT. A SECOND PROPOSAL BY URUGUAY (PERMITTING ARREST OF VESSELS IN THE ECONOMIC ZONE BY FOREIGN VESSELS ONLY IN THE CASES OF PIRACY, SLAVERY, DRUGS, ILLEGAL BROADCASTING, AND A STATELESS SHIP) RECEIVED NO SUPPORT.

9. AFTER CONSIDERABLE DISCUSSION AS TO WHETHER PERU'S SUGGESTION, TO RENUMBER AND REARRANGE THE ARTICLES IN THESE CHAPTERS, AND TO MAKE CERTAIN OTHER CONFORMING CHANGES, WAS SUBSTANTIVE OR MERELY FORMAL, IT WAS DECIDED TO SET THE PROBLEM ASIDE FOR THE TIME BEING. THE CHAIR'S SUGGESTION THAT THE MATTER COULD BE REFERRED TO CONFIDENTIAL

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FROM LOSDEL

THE DRAFTING COMMITTEE MET STRONG RESISTANCE FROM BULGARIA.

10. WITH RESPECT TO THE DELETION OF ARTICLE 86, WHICH SPECIFIES THE SCOPE OF APPLICATION OF THE CHAPTER ON THE HIGH SEAS, THE USSR MADE A VERY LOW-KEY INTERVENTION. IMMEDIATE AND STRONG OPPOSITION WAS RAISED BY A LARGE NUMBER OF COASTAL STATES, WITH MEXICO AND VENEZUELA THREATENING TO REOPEN THE ENTIRE ECONOMIC ZONE DEBATE IF THE SOVIETS PRESSED THE ISSUE.

11. THE SOVIETS ALSO PROPOSED LIMITING THE SALVAGE OF SUNKEN VESSELS IN AREAS OUTSIDE THE TERRITORIAL SEA TO THE FLAG STATE, AS AN ADDITION TO ARTICLE 98, WITH DOUBTS OR OPPOSITION BEING RAISED BY SENEGAL, MOROCCO, URUGUAY, ECUADOR, CHILE, FRG, AND NEW ZELAND. ARTICLE 100 RECEIVED BRIEF ATTENTION AND DISCUSSION WILL CONTINUE WITH ARTICLE 101 AT THE NEXT MEETING.

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12. BY AND LARGE, THE WEEK'S DISCUSSIONS WERE AS EXPECTED, UNPRODUCTIVE AND PREDICTABLE. UNTIL AGREEMENT ON CORE ISSUES CAN BE RESOLVED BY THE STATES MOST AFFECTED, LITTLE MORE PROGRESS CAN BE EXPECTED ON COMMITTEE II

ISSUES.

13. THE "SECRET" GROUP OF EXPERTS MEETING UNDER THE CHAIRMANSHIP OF MR. ZULETA CONTINUED ITS CONSIDERATION OF SEA BED DISPUTES PROCEDURES. A PROMISING SIGN WAS THE APPARENT AGREEMENT IN PRINCIPLE THAT A MINORITY OF MEMBERS OF ANY ORGAN OF THE AUTHORITY COULD REQUEST AN ADVISORY JUDICIAL OPINION ON THE CONFORMITY WITH THE CONVENTIONS OF PROPOSED AUTHORITY REGULATIONS. COMMERCIAL ARBITRATION OF MINING CONTRACTS MAY BE TAKEN UP BEFORE THE END OF THIS SESSION.

14. THE WEEK ENDED WITH THE PRESENTATION BY CHAIRMAN VALLARTA OF AN INFORMAL WORKING PAPER OF POLLUTION AMENDMENTS (MP/27). MP/27 CONTAINS THOSE ARTICLES VERY INFORMALLY CHARACTERIZED AS PARTS OF A "PACKAGE" OF THE AMENDMENTS ON WHICH CONSENSUS WAS REACHED AND WHICH WOULD BE TREATED IN THE SAME MANNER AS THOSE TEXTS ALREADY IN CATEGORY I. THERE WAS NO DISCUSSION OF MP/27 AND NO REACTION IS EXPECTED UNTIL THE WEEK OF SEPTEMBER 5. THE US DELEGATION TOGETHER WITH THE UK AND USSR WILL BE DISCUSSING MP/27 WITH SENEGAL, TANZANIA, SOMALIA, ECUADOR, AND ARGENTINA IN ORDER TO HEAD OFF IF POSSIBLE EXPECTED OPPOSITION. YOUNG

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMITTEES
Control Number: n/a
Copy: SINGLE
Draft Date: 08 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978USUNN03512
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780366-1130
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780985/aaaacsxc.tel
Line Count: 356
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: cc1d1054-c288-dd11-92da-001cc4696bcc
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 02 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1496474
Secure: OPEN
Status: NATIVE
Subject: LOS CONFERENCE WEEKLY SUMMARY - AUGUST 28 - SEPTEMBER 1 SUMMARY: COMMITTEE I: SEABEDS DISCUSSION IN THE NE
TAGS: PLOS
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/cc1d1054-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014